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October 26, 2009

BY HAND DELIVERY

Docket No. 51-2008
Total Pages: 8

PUBLIC DOCUMENT

Mr. Andrew McGilvray
Executive Secretary
Foreign Trade Zones Board
U.S. Department of Commerce
1401 Constitution Avenue, N.W.
Room 2111
Washington, D.C. 20230

Re: ***Foreign Trade Zone 82 - Mobile, Alabama – Application for Subzone Authority, ThyssenKrupp Steel and Stainless USA, Inc. – Rebuttal Comments of AK Steel Corporation***

Dear Mr. Secretary:

On behalf AK Steel Corporation, this letter provides rebuttal comments respecting the referenced subzone application and urges the Foreign Trade Zones Board not to grant the application by the City of Mobile to establish a foreign trade subzone for the benefit of ThyssenKrupp Steel and Stainless USA, LLC ("ThyssenKrupp").

The pending application presents an important case not only for AK Steel, but for the entire U.S. steel industry. ThyssenKrupp asks this Board to take the unprecedented action of granting a subzone application that will give a single steel producer an admitted cost advantage over all of its U.S. competitors. In fact, no U.S. steel producer makes steel today in a subzone.

In 1985, the FTZ Board did grant a special purpose subzone for the shipyard of Bethlehem Steel at Sparrows Point, Maryland within the Baltimore Customs port of entry, but that subzone was for building ships, not for making steel. Moreover, in granting that subzone for a shipyard, the Board found that the proposal would be in the public interest only by making the application subject to the condition that any steel used in manufacturing the ships would be subject to Customs duties in accordance with applicable law, if the same steel product was being produced by a domestic steel mill. That is, the Board made sure that the subzone would not hurt any U.S. steel producer.

ThyssenKrupp asks the Board to allow it to import raw materials duty free, while its U.S. competitors continue to pay full duties. That would clearly hurt other steel producers. ThyssenKrupp makes this request even though steel production is one of the most trade-exposed manufacturing sectors, as is evidenced by the numerous findings of unfair trade in steel products by this Department and numerous findings of resulting damage to domestic industries by the International Trade Commission. Today there are over seventy antidumping and countervailing duty orders on steel products. In fact, ThyssenKrupp's foreign owners and affiliates are the objects of orders on carbon steel products from Germany and orders on stainless steel products from Germany, Italy, and Mexico. These are the very products that it plans to make in the proposed subzone.

Moreover, ThyssenKrupp comes before this Board at a time when the U.S. steel sector is reeling from "the Great Recession." ThyssenKrupp asks for special treatment and a cost advantage over all of its U.S. competitors at a time when the industry is most vulnerable.

Thus, the Board should consider ThyssenKrupp's application in the context of numerous findings of unfair and injurious trade in steel products, multiple findings of unfair trade by

ThyssenKrupp's affiliates, a domestic steel industry that is suffering from gross overcapacity due to severely depressed demand for steel products, and a history of not establishing subzones for the production of steel products.

ThyssenKrupp Has Failed To Meet Its Burden To Show That The Proposed Subzone Will Result In A "Significant Public Benefit"

As demonstrated by the testimony from members of the domestic industry and union officials at the Board's hearing on this matter, the proposed subzone is not in the public interest, because it would have a negative net economic effect. The negative net economic effect is apparent.

First, there is absolutely no positive economic effect that is contingent on the grant of the subzone. The claimed employment and other economic benefits have zero linkage with the approval of the subzone. In fact, the application itself concedes that "FTZ status is not a precondition for construction or activity at the proposed site." Groundbreaking for the plant began in November 2007. The application at issue was not submitted until August 2008. The only potential economic benefit tied to subzone approval is the possible future expansion of the facility, a possibility that is highly speculative at best. When the subzone application was filed in August of 2008, the application claimed that "U.S. demand for steel products is strong, but domestic production lags far behind." That statement is clearly wrong today. Given the substantial over-supply situation that already exists in the U.S. market and which will be exacerbated by the construction and operation of ThyssenKrupp's facilities, further expansion in the foreseeable future is not economically justified and is highly unlikely. In fact, ThyssenKrupp has announced long delays in the project due to the weak demand conditions.

Second, ThyssenKrupp admits that it will use the subzone to eliminate tariffs on its imported raw materials in order to obtain a cost advantage. That cost advantage to

ThyssenKrupp will necessarily have an adverse economic impact on the rest of the U.S. steel industry. Because ThyssenKrupp's operations in Alabama will possess the same comparative advantages (including shorter lead times) enjoyed by other domestic producers, the additional cost advantage that subzone status would confer is large enough to be decisive in the competition between ThyssenKrupp and other domestic producers for sales in the U.S. market. Moreover, denial of the subzone application will not prejudice ThyssenKrupp's exports of stainless steel because duty avoidance on raw material imports can be obtained through the available alternative of the duty drawback program. The City of Mobile, in its letter of October 9, 2009, suggests that the other domestic producers should seek their own subzones to obtain duty-free treatment of imported inputs. Congress, however, is the appropriate forum to accomplish this goal, not the piecemeal and uncertain approach suggested by the City of Mobile.

Third, the elimination of duties will motivate ThyssenKrupp to buy fewer raw materials from the United States in favor of cheaper imports. According to the chart submitted by ThyssenKrupp (Rebuttal and Supplemental Information, January 8, 2009) presenting information taken from the U.S. Geological Survey Mineral Commodity Summaries 2008, there is at least some U.S. production of the following raw materials: ferrosilicon, ferrosilicon manganese, ferrochromium, and ferroniobium. The ThyssenKrupp chart indicates that only with respect to ferromanganese is there no domestic production. The Mineral Commodity Summaries for 2009 indicate the same raw material availability picture.

In short, all that ThyssenKrupp has attempted to show is that it will benefit from a subzone. The facts show, however, that a subzone will have a net negative impact on the steel industry as a whole.

The Board Should Reject ThyssenKrupp's Argument That Subzone Manufacturing Will Merely Displace Imports As Opposed To Existing Domestic Production.

ThyssenKrupp's rebuttal comments rely on import data for the period from 2003 to 2007 to assert that imports into the United States are increasing. ThyssenKrupp fails to acknowledge that imports receded from the U.S. market in 2008 and 2009. In fact, the import data set forth in Attachment D to ThyssenKrupp's January 8, 2009 Rebuttal Comments are grossly misleading, because they use a base year of 2003 and an ending year of 2007. More recent data show a sharp drop in imports from 2006 to 2008 and another sharp drop from January-August 2008 to January-August 2009. A chart of the latest available import data is attached to this letter.

ThyssenKrupp's cost advantage will not be used to displace imports, but rather to take market share from AK Steel and other U.S. producers. ThyssenKrupp will operate in a manner that is to its benefit and to the detriment of its U.S. competitors. Regardless of the import/domestic mix ThyssenKrupp ultimately pursues, the U.S. market will be over-supplied by ThyssenKrupp, and the difficult economic situation faced by AK and other steel producers will be made worse.

The Board Also Should Reject ThyssenKrupp's Argument That Support From Local Officials Shows A Public Benefit

Local support for ThyssenKrupp is understandable given the large subsidies provided to ThyssenKrupp to locate in Alabama. But ThyssenKrupp's investment has absolutely no linkage with the grant of subzone status. In any event, the issue for this Board is not whether a subzone would be good for the City of Mobile, but rather whether it would be good for the United States and good for steelworkers in Ohio, Pennsylvania, Indiana, and elsewhere.

As explained in AK's initial comments, the fact that ThyssenKrupp has already received local government subsidies of nearly a billion dollars and is slated to receive another 3+ billion in tax credits is no reason to grant it another subsidy from the U.S. government. These local subsidies for ThyssenKrupp already place AK Steel at a severe competitive disadvantage and make grant of further special treatment for ThyssenKrupp highly inappropriate.

Conclusion

AK Steel strongly urges the Board to deny this application on the grounds that it is not in the public interest. The application fails to show any positive economic benefit that is linked to the grant of the application. The investment project is in no way dependent on subzone status. On the other hand, providing ThyssenKrupp a raw material cost advantage would have an adverse economic impact on AK Steel, other U.S. steel producers, and U.S. steelworkers. These facts do not warrant the establishment of the first subzone to make steel, especially at a time when the steel industry is already suffering from weak demand and overcapacity conditions. ThyssenKrupp should source its raw materials from the United States or pay tariffs on its imports, just like any other U.S. producer.

Please contact us if you have any questions regarding this submission.

Sincerely,

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Stainless Steel
From All Countries

U.S. Imports for Consumption

2006 - 2008 Data

HTS Number	2006	2007	2008	Percent Change 2006 - 2008
	In 1,000 Units of Quantity			
First Unit of Quantity where quantities are collected in kilograms				
721891	57,348	59,625	39,852	-30.51%
721899	55,934	52,055	64,072	14.55%
721911	2,473	2,605	1,724	-30.29%
721912	36,448	37,156	20,930	-42.58%
721913	25,451	14,412	19,716	-22.53%
721914	1,178	1,429	2,035	72.75%
721921	15,912	28,116	21,803	37.02%
721922	38,787	51,661	34,214	-11.79%
721923	2,153	3,515	8,651	301.81%
721924	390	765	428	9.74%
721931	5,040	9,009	3,548	-29.60%
721932	31,009	34,034	26,485	-14.59%
721933	155,499	118,379	140,945	-9.36%
721934	131,972	103,094	94,363	-28.50%
721935	32,582	29,451	24,089	-26.07%
721990	45,781	37,116	41,500	-9.35%
Total kilograms	637,954	582,421	544,355	-14.67%

Sources: Data on this site have been compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.

Stainless Steel
From All Countries

U.S. Imports for Consumption

2008 and 2009 Year-To-Date Data (Jan - Aug)

HTS Number	2008 YTD	2009 YTD	Percent Change YTD2008 - YTD2009
First Unit of Quantity where quantities are collected in kilograms			
721891	29,430	20,312	-31.00%
721899	42,880	22,261	-48.10%
721911	1,395	364	-73.90%
721912	15,503	6,059	-60.90%
721913	14,028	4,159	-70.40%
721914	1,211	1,701	40.50%
721921	14,948	5,603	-62.50%
721922	25,892	8,184	-68.40%
721923	6,280	1,278	-79.70%
721924	295	176	-40.40%
721931	2,685	1,444	-46.20%
721932	19,251	10,239	-46.80%
721933	111,163	36,720	-67.00%
721934	74,422	31,292	-58.00%
721935	17,332	6,497	-62.50%
721990	31,677	12,238	-61.40%
Total kilograms	408,393	168,525	-58.70%

Sources: Data on this site have been compiled from tariff and trade data from the U.S. Department of Commerce and the U.S. International Trade Commission.